

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
Civil Action No. 4:05-CV-55-D

PCS PHOSPHATE COMPANY. INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>PLAINTIFF PCS PHOSPHATE</b>
	)	<b>COMPANY, INC.'S PRE-TRIAL</b>
	)	<b>DISCLOSURES</b>
NORFOLK SOUTHERN CORP. AND	)	
NORFOLK SOUTHERN RAILWAY	)	
COMPANY, INC.,	)	
Defendants.	)	

**INTRODUCTION**

Plaintiff PCS Phosphate Company, Inc. ("PCS") submits the following pre-trial disclosures in accordance with Fed. R. Civ. P. 26(a)(3) and pursuant to the November 7, 2007 Scheduling Order.

**PCS WITNESSES**

PCS intends to call the following witness at trial:

1. Ivan K. ("Tex") Gilmore, 1530 NC Highway 306 South, Aurora, North Carolina 27806; 252-322-8227. Mr. Gilmore's testimony will be given live at trial.

PCS may call the following witness for trial, if needed:

2. Robert Chiles, 417-A Broad Street, New Bern, North Carolina 28564; 252-637-4702. Mr. Chiles' testimony, if needed, will be given live at trial.

3. To the extent Defendants' January 4, 2008 disclosures raise issues requiring engineering, railroad construction, or accounting expertise, PCS reserves the right to call a fact or expert witness in any of these areas to rebut Defendants' contentions and evidence.

4. Any witness Defendants identify in their pre-trial disclosures or otherwise intend to call at trial.

5. Any witness necessary to rebut or impeach Defendants' evidence.
6. Any witness identified during any 30(b)(6) depositions taken by Defendants or by PCS, as authorized in the Scheduling Order.
7. Any other witness who may be identified during the course of the trial or in preparation thereof.

### **PCS EXHIBITS**

PCS intends to offer the following exhibits:

1. Aerial Map of Former and Relocated Railroad Line dated May 31, 2006
2. Mine Advance Plan
  - 2A. Map of Mine Advance dated November 16, 2007
  - 2B. Photograph of Existing NSRR Track and Prestrip Advance
3. PCS Phosphate Company Inc.'s Complaint and Exhibits
  - 3A. Deed of Easement dated June 29, 1965
  - 3B. Deed of Easement dated June 29, 1965
  - 3C. Deed of Easement dated October 12, 1965
  - 3D. Deed of Easement dated April 15, 1966
  - 3E. Deed of Easement dated May 3, 1966
  - 3F. November 20, 2003 letter from PCS to Norfolk Southern
  - 3G. March 13, 2003 letter from C. Wilson
  - 3H. December 16, 2004 letter from K. McQuade
  - 3I. February 11, 2005 letter from K. McQuade
4. Summary of Total Costs of Railroad Relocation Project
5. Estimated Cost to PCS for Key PCS Employees on Railroad Relocation Project

6. Interest Calculations on Damages (to be submitted at trial in conformity with the evidence)
7. Stages of Construction of Relocated Track
  - 7A. Project Map for Relocation Project
  - 7B. July 13, 2006 Mining Planning Monthly Update
  - 7C. August 1, 2006 Mining Planning Monthly Update
  - 7D. August 31, 2006 Mining Planning Monthly Update
  - 7E. October 5, 2006 Mining Planning Monthly Update
  - 7F. November 1, 2006 Mining Planning Monthly Update
  - 7G. December 1, 2006 Mining Planning Monthly Update
  - 7H. January 11, 2007 Mining Planning Monthly Update
  - 7I. February 1, 2007 Mining Planning Monthly Update
  - 7J. March 1, 2007 Mining Planning Monthly Update
  - 7K. April 10, 2007 Mining Planning Monthly Update
8. Railroad Construction Photographs
9. Organizational Chart of PCS Employees on Relocation Project
10. Manual for Railway Engineering (Multivolume Set published by American Railway Engineering and Maintenance of Way Association, 2005 Ed.) (excerpts to be submitted, if necessary)
11. PCS Requests for Norfolk Southern Specifications
  - 11A. March 9, 2005 letter from Robert M. Chiles, P.E.
  - 11B. April 1, 2005 letter from Robert M. Chiles, P.E.
  - 11C. August 19, 2005 letter from Robert M. Chiles P.E. to Jim Rader

- 11D. August 19, 2005 letter from Robert M. Chiles P.E. to J. N. Carter
- 11E. September 20, 2005 letter from Charles E. Raynal, IV
- 12. 2003 E-mail Correspondence Regarding Railroad Relocation Costs
- 13. Verified Statement of David A. Becker
- 14. October 21, 2005 Final Report by HNTB
- 15. Documents necessary to address issues raised in Defendants' January 4, 2008 disclosure regarding contested damages issues (if any)
- 16. Defendants' Exhibits
- 17. Impeachment Exhibits (if any)
- 18. Rebuttal Exhibits (if any)

This the 20th day of December, 2007.

/s/ Charles E. Raynal, IV  
R. Bruce Thompson II  
N.C. State Bar No. 21468  
Charles E. Raynal, IV  
N.C. State Bar No. 32310  
PARKER POE ADAMS & BERNSTEIN LLP  
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**Attorneys for PCS Phosphate Company, Inc.**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing **PLAINTIFF PCS PHOSPHATE COMPANY, INC.'S PRE-TRIAL DISCLOSURES** on all parties to this action by hand delivery, addressed as follows:

Odes L. Stroupe, Jr.  
John S. Byrd, II  
Bode, Call & Stroupe, L.L.P.  
Post Office Box 6338  
Raleigh, North Carolina 27628-6338

This the 20th day of December, 2007.

/s/ Charles E. Raynal, IV  
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